

Introduced by Senator WolkFebruary 20, 2014

An act to add Article 1 (commencing with Section 18701) to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as introduced, Wolk. California Voluntary Contribution Program.

Under the existing Personal Income Tax Law, taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds. Existing law provides for various voluntary contribution check-off funds to be listed on the income tax return.

This bill would modify the existing voluntary check-off system by establishing the California Voluntary Contribution Program to expand the contribution options for a taxpayer. Commencing January 1, 2016, the bill would establish the Office of California Volunteers to administer the program. The bill would provide that the purpose of the program is to promote charitable giving and collect through the personal income tax return individual taxpayers' voluntary contributions to qualified applicants, defined to include any charitable organization or a state or local agency meeting certain requirements. Not later than January 1, 2017, the bill would require the office to, among other things, develop the application to participate in the program and establish application and renewal fees. The bill would authorize the office to adopt regulations necessary to carry out these provisions and would make these regulations subject to the Administrative Procedure Act. The bill would require the Franchise Tax Board to revise the personal income tax form in a manner

necessary to inform an individual about how to make a designation to any qualified applicant.

Commencing on January 1, 2017, this bill would allow an individual to designate a contribution to any qualified applicant. The bill would require an applicant wishing to receive contributions to submit an application to the program, including an application fee. The bill would require these contributions to be transferred from the Personal Income Tax Fund to the California Voluntary Contribution Fund, created by this bill. The bill would require moneys in the California Voluntary Contribution Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and the balance to the Office of California Volunteers for distribution to each qualified application designated by an individual. The bill would establish a specified minimum contribution amount for each qualified applicant. The bill would prohibit a qualified applicant from receiving voluntary contributions if, among other things, the average amount of contributions received during certain calendar years did not equal the minimum contribution amount.

This bill would annually require the office to provide the Legislature with a report containing specified information on the program. The bill would also require this report to be made available to the public.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that the
2 state has a role in informing the public of the value and need for
3 community service, volunteerism, and charitable giving as a form
4 of civic engagement in order to support important social and
5 community programs. The Legislature further finds and declares
6 that there are many worthy charitable causes in California that
7 may benefit from taxpayers' voluntary charitable contributions on
8 the tax form, but are not able to do so under the existing tax
9 check-off process. Therefore, it is the intent of the Legislature to
10 promote civic engagement by establishing a program where
11 taxpayers have the opportunity to give to a wide range of charitable
12 causes on their tax return.

13 (b) It is the intent of the Legislature to retain all existing funds
14 currently on the tax return form until their repeal dates, and, in

1 legislation to be enacted at a later date, transition the remaining
2 funds to the California Voluntary Contributions Program by 2020.
3 However, it is the intent of the Legislature that the California Fund
4 for Senior Citizens, the California Firefighters' Memorial Fund,
5 and the California Peace Officer Memorial Foundation Fund extend
6 their repeal dates in legislation to be enacted at a later date.

7 SEC. 2. Article 1 (commencing with Section 18701) is added
8 to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation
9 Code, to read:

10
11 Article 1. California Voluntary Contribution Program
12

13 18701. For the purposes of this article, the following definitions
14 shall apply:

15 (a) "Charitable organization" means an organization exempt
16 from income tax as an organization described in Section 13701d.

17 (b) "Local agency" and "state agency" have the same meanings
18 as defined in Section 6252 of the Government Code.

19 (c) "Office" means the Office of California Volunteers.

20 (d) "Program" means the California Voluntary Contribution
21 Program.

22 (e) A "qualified applicant" means a charitable organization that
23 meets the requirements of either paragraph (1) or (2):

24 (1) (A) Was incorporated in California at least five years prior
25 to the date of application.

26 (B) Has registered in this state with the Attorney General's
27 Registry of Charitable Trusts for each of the three years prior to
28 the date of application and has met each of the requirements that
29 apply to the applicant, under statute and as established by the
30 Attorney General under the terms of the Attorney General's
31 Registry of Charitable Trusts.

32 (C) Has submitted annual tax-exempt filings with the Internal
33 Revenue Service for each of the three years prior to the data of
34 application.

35 (D) Has average annual total revenues in excess of the minimum
36 contribution level described in Section 18705, as calculated from
37 each of the three years prior to the date of application.

38 (2) Is a state or local agency.

39 (f) This section shall become operative on January 1, 2016.

1 18702. (a) There is hereby established in state government the
2 California Voluntary Contribution Program and the Office of
3 California Volunteers.

4 (b) The purpose of the program is to promote charitable giving
5 and provide individual taxpayers' voluntary contributions to
6 qualified applicants. The office shall be responsible for
7 administering the program.

8 (c) This section shall become operative on January 1, 2016.

9 18703. (a) An applicant who wishes to receive voluntary
10 contributions through the program shall submit an application to
11 the program no later than April 1 of each calendar year. The
12 application shall include all of the following:

13 (1) Evidence satisfactory to the office that the applicant is a
14 qualified applicant as defined in Section 18701. All documents
15 submitted to the office shall be made public.

16 (2) An application fee, as established by the office pursuant to
17 Section 18701, in an amount sufficient to cover the reasonable
18 regulatory cost to the office for carrying out the application process.

19 (b) The office shall approve an application if the requirements
20 of subdivision (a) are met, thereby making a qualified applicant
21 eligible to receive voluntary contributions.

22 (c) This section shall become operative on January 1, 2017.

23 18704. A qualified applicant whose application is approved
24 by the office may continue to receive voluntary contributions each
25 year if the following requirements are met:

26 (a) Contributions received by the qualified applicant through
27 the program in the prior year meet or exceed the minimum
28 contribution level established for the program, as described in
29 Section 18705.

30 (b) The qualified applicant continues to meet the requirements
31 established for qualified applicants in Section 18701.

32 (c) The qualified applicant submits an application for renewal
33 and pays a renewal fee, as determined by the office pursuant to
34 Section 18710.

35 (d) This section shall become operative on January 1, 2017.

36 18705. (a) The minimum contribution amount for each
37 approved qualified applicant is one hundred thousand dollars
38 (\$100,000).

39 (b) Notwithstanding subdivision (a), the office shall adopt
40 regulations to adjust the minimum contribution requirement every

1 five calendar years, beginning with the third calendar year after
2 the first appearance of the “California Voluntary Contributions
3 Fund” on the personal income tax return.

4 (c) This section shall become operative on January 1, 2017.

5 18706. (a) A qualified applicant may no longer receive
6 voluntary contributions if either of the following apply:

7 (1) The average amount of contributions received during three
8 calendar years did not equal the minimum contribution
9 requirement, as described in Section 18705.

10 (2) The designee no longer meets the definition of a “qualified
11 applicant” pursuant to Section 18701.

12 (b) When a qualified applicant is no longer eligible to receive
13 voluntary charitable contributions pursuant to this article, the office
14 shall immediately revoke the eligibility of the qualified applicant
15 from the program.

16 (c) A qualified applicant whose eligibility is revoked from
17 participation in the program may reapply to the program no sooner
18 than five years after the eligibility was revoked.

19 (d) This section shall become operative on January 1, 2017.

20 18707. (a) An individual may designate on the personal income
21 tax return that a contribution in excess of the tax liability, if any,
22 be made to a specific qualified applicant whose application has
23 been approved pursuant to Section 18703. The contribution shall
24 be deposited in the California Voluntary Contribution Fund
25 established by Section 18708. That designation is to be used as a
26 voluntary contribution on the tax return.

27 (b) The contributions shall be in full dollar amounts and may
28 be made individually by each signatory on a joint return.

29 (c) A designation under subdivision (a) shall be made for any
30 taxable year on the original return for that taxable year, and once
31 made shall be irrevocable. If payments and credits reported on the
32 return, together with any other credits associated with the
33 individual’s account, do not exceed the individual’s liability, the
34 return shall be treated as though no designation has been made.

35 (d) The Franchise Tax Board, in consultation with the office,
36 shall revise the tax form of the return to include a space labeled
37 “California Voluntary Contributions Program,” to allow for the
38 designation permitted under subdivision (a). The form shall also
39 include in the instructions information that the contribution may
40 be in the amount of one dollar (\$1) or more and that the

1 contribution shall be used to support the qualified applicant
2 specified by the taxpayer.

3 (e) A deduction shall be allowed under Article 6 (commencing
4 with Section 17201) of Chapter 3 of Part 10 for any contribution
5 made pursuant to subdivision (a).

6 (f) This section shall become operative on January 1, 2017.

7 18708. (a) There is hereby established in the State Treasury
8 the California Voluntary Contribution Fund to receive contributions
9 from voluntary taxpayer contributions made pursuant to Section
10 18707.

11 (b) The Franchise Tax Board shall notify the Controller of both
12 the amount of money paid by individuals in excess of their tax
13 liability and the amount of refund money which individuals have
14 designated pursuant to Section 18707 to be transferred to the
15 California Voluntary Contribution Fund. The Controller shall
16 transfer from the Personal Income Tax Fund to the California
17 Voluntary Contribution Fund an amount not in excess of the sum
18 of the amounts designated by individuals pursuant to Section 18707
19 for payment into that fund.

20 (c) This section shall become operative on January 1, 2017.

21 18709. (a) All money transferred to the California Voluntary
22 Contribution Fund, upon appropriation by the Legislature, shall
23 be allocated as follows:

24 (1) To the Franchise Tax Board, the Controller, and the office
25 for reimbursement of all costs incurred in connection with their
26 duties under this article.

27 (2) To the office for distribution to each qualified applicant
28 designated by a taxpayer.

29 (b) On and after January 1, 2018, no more than 5 percent of
30 money from the fund, exclusive of fee revenues, shall be used for
31 administrative purposes.

32 (c) All moneys may be carried over from the year in which they
33 were received and encumbered in any following year.

34 (d) In the event that no designee is specified, the contribution
35 shall, after reimbursement of the direct actual costs of the Franchise
36 Tax Board for the collection and administration of funds under
37 this article, be transferred to the General Fund.

38 (e) In the event an individual designates a contribution to a
39 qualified applicant whose eligibility for receiving voluntary
40 contributions has been revoked, the moneys shall be held for up

1 to five years and may be distributed to the designee only if and
2 when the designee becomes a qualified applicant once again. If
3 the designee fails to become a qualified applicant within five years
4 after their eligibility is revoked, the funds shall be transferred to
5 the General Fund.

6 (f) In the event an individual designates a contribution to more
7 than one qualified applicant listed on the tax return, and the amount
8 available is insufficient to satisfy the total amount designated, the
9 contribution shall be allocated among the designees on a pro rata
10 basis.

11 (g) This section shall become operative on January 1, 2017.

12 18710. (a) The office shall, not later than January 1, 2017, do
13 all of the following:

14 (1) Develop the application and related materials to be
15 completed by applicants to participate in the program, including
16 the types of proof necessary to comply with the program.

17 (2) By regulation, establish reasonable and necessary application
18 and renewal fees in an amount not to exceed the reasonable
19 regulatory cost of administering the application and renewal
20 process.

21 (3) Develop procedures and adopt regulations to inform
22 taxpayers on how to contribute directly to a charitable organization
23 or state or local agency if that charitable organization or state or
24 local agency is not eligible to receive contributions since it did not
25 meet the required minimum contribution amount.

26 (b) The office may do the following:

27 (1) Form an advisory body or related bodies as deemed
28 necessary.

29 (2) Contract with other agencies, public or private, as deemed
30 necessary in pursuit of the duties described in this act.

31 (3) Adopt regulations necessary for the administration of this
32 article.

33 (c) (1) The office shall annually provide to the Legislature, and
34 make publicly available, a report on the program, including goals,
35 a baseline, metrics and targets to track, over time, the effectiveness
36 of efforts to encourage charitable giving. The annual report shall
37 include information on total contributions received, administrative
38 and related costs, and total contribution distributed to qualified
39 applicants.

1 (2) (A) A report to the Legislature pursuant to this section shall
2 be submitted in compliance with Section 9795 of the Government
3 Code.

4 (B) This subdivision shall become inoperative on January 1,
5 2020, pursuant to Section 10231.5 of the Government Code.

6 (d) Not later than January 1, 2017, the Franchise Tax Board
7 shall revise the tax form and any other related materials, including
8 online materials, in order to allow an individual to designate a
9 contribution to any one of the qualified applicants approved
10 pursuant to Section 18703. These forms and materials may include,
11 but not be limited to, a separate schedule, booklet, or any other
12 material necessary to inform an individual about qualified
13 applicants and how to make a designation on the personal income
14 tax return.

15 (e) This section shall become operative on January 1, 2016.

16 18711. (a) Any regulation adopted pursuant to this article shall
17 be adopted pursuant to the Administrative Procedure Act (Chapter
18 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
19 Title 2 of the Government Code).

20 (b) This section shall become operative on January 1, 2016.